

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57522; File No. SR-NYSEArca-2008-30)

March 18, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 6.37B Pertaining to Market Maker Quotations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 14, 2008, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by NYSE Arca. The Exchange has filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca proposes to amend NYSE Arca Rule 6.37B Market Maker Quotations - OX.

The text of the proposed rule change is available at NYSE Arca, the Commission’s Public Reference Room, and www.nysearca.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Arca included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to revise the review period the Exchange uses when determining a Market Maker's compliance with the 60% quoting obligations contained in NYSE Arca Rule 6.37B(c). The Exchange also proposes to add a provision to Rule 6.37B(c) that will deal with exceptions to Market Maker quoting obligations.

Market Makers, other than Lead Market Makers ("LMM"), are required to provide continuous two-sided quotations throughout the trading day in their appointed issues for 60% of the time that the Exchange is open for trading in each issue. Compliance with this obligation is presently measured on a per-calendar-quarter basis. The Exchange proposes to reduce the review period from a quarterly basis down to a monthly basis. The Exchange believes that this change is consistent with a recently approved rule change for LMM quoting obligations.⁵ The Exchange believes that the shorter time period will allow the NYSE Arca Options Surveillance Department to more effectively monitor a Market Maker's compliance with their quoting obligations.

On occasion, a situation may arise where a Market Maker is unable to provide continuous quotations due to circumstances completely beyond his or her control. Accordingly, the Exchange proposes to amend Rule 6.37B(c) to state that if a technical failure or limitation of a

⁵ See Securities Exchange Act Release No. 57186 (January 22, 2008), 73 FR 4931 (January 28, 2008) (SR-NYSEArca-2007-121).

system of the Exchange prevents a Market Maker from providing timely and accurate electronic quotes, the duration of such failure shall not be considered in determining whether the Market Maker has satisfied the 60% quoting standard. The Exchange may also take into consideration demonstrated legal or regulatory requirements or other mitigating circumstances that might prevent a Market Maker from providing continuous quotations. In order for the Exchange to consider any exceptions to quoting obligations, Market Makers must notify the Exchange promptly whenever circumstances arise that prevent them from providing continuous quotations. The Exchange notes that this proposed amendment is similar to NYSE Arca Rule 6.37B(b), which provides for limited exceptions to LMM quoting obligations.

The Exchange also proposes minor technical changes to Rule 6.37B. The Exchange states that the terms “issue” and “class,” when used in the context of a Market Maker’s Appointment, are virtually interchangeable words. However, for the sake of consistency within Rule 6.37B, the Exchange proposes to use just the term “issue.” Accordingly, wherever the term “class” is used, it will now read “issue.” The Exchange also proposes a minor change to the numbering of subsections within the Rule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that this rule

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

change will create a more efficient procedure for the Exchange to monitor quoting obligations of Market Makers, while at the same time providing relief for these obligations when a situation arises that is completely beyond the control of the Market Maker.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹⁰ However, Rule 19b-4(f)(6)(iii)¹¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing notice requirement.

¹¹ Id.

interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to implement the proposal without needless delay. The Commission notes that it recently approved a substantially similar NYSE Arca proposal pertaining to LMM quoting obligations.¹² For these reasons, the Commission designates the proposed rule change to be operative upon filing with the Commission.¹³

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2008-30 on the subject line.

¹² See supra note 5.

¹³ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2008-30. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information

that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2008-30 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).